

DETAILED ACTION

Election/Restrictions

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-45, 58 and 59, drawn to a composition containing an antimicrobial material.

Group II, claim(s) 46-50, 56, 57 and 61, drawn to a foodstuff containing an antimicrobial material.

Group III, claim(s) 51-55 and 60, drawn to a process for introducing an antimicrobial material into a foodstuff.

The inventions listed as Groups I-III do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: The claims do not contribute over the art to Ranum, who teaches encapsulated mold inhibitors for bread. Although Ranum does not describe his emulsifiers as a shell, applicant describes emulsifiers as a part of the shell in claim 25.

This application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The species are as follows:

Shell materials made from Fats, emulsifiers, waxes, liposome-forming lipids, hydrocolloids, natural polymers and synthetic polymers as set forth in claim 25.

Applicant is required, in reply to this action, to elect a single species to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant

must indicate which are readable upon the elected species. MPEP

§ 809.02(a).

The claims are deemed to correspond to the species listed above in the following manner:

The shell ingredient is included in almost every claim. The composition of the shell material can include any of the ingredients mentioned in claim 25.

The following claim(s) are generic: claim 25.

The species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons: The claims do not contribute over the art to Ranum, who teaches encapsulated mold inhibitors for bread. Although Ranum does not describe his emulsifiers as a shell, applicant describes emulsifiers as a part of the shell in claim 25.

As an additional matter the following rejections are included to advance prosecution of this application.

Claims 39-41 43, 55 and 58-61 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

There is no antecedent basis in claims 39-41 and 43 for “the encapsulated material”. An amendment to the claim 37 inserting – encapsulated- before “antimicrobial” would overcome the rejection.

Claim 55 is a process depending from a product and it is unclear how the process is further defined by the product. An amendment to the claim clarifying this issue would overcome the rejection.

In claims 58-61, the claims refer to the examples and it is unclear as to which examples are referred to. Cancellation or clarification of these claims is suggested.

Claim 28 depends from claim 275. Appropriate correction is requested.

Claims 13-16, 18-23, 25, 27, 29, 30, 33, 35, 36, 45, 50, 56 and 57 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim. See MPEP § 608.01(n)

It is requested that appropriate amendment be made to the elected claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carolyn A Paden whose telephone number is (571) 272-1403. The examiner can normally be reached on Monday to Friday from 7 am to 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Keith Hendricks can be reached by dialing 571-272-

1401. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Carolyn Paden/

Primary Examiner 1794

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